



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Barbara Attard

SUBJECT: RESPONSE TO CIVIL GRAND JURY
REPORT: RACIAL PROFILING BY
SJPd—PERCEPTION VS REALITY
FINDING AND RECOMMENDATION #3

DATE: August 4, 2006

Council District: Citywide

RECOMMENDATION

That the Council direct the IPA to conduct a review of similar civilian oversight organizations that audit police agencies to determine models whose functions could be considered to augment the IPA mission, and report to the City Council on this issue in the upcoming 2006 IPA Mid-Year Report.

BACKGROUND

The Civil Grand Jury reviewed allegations from individuals and concerns from community organizations that the San Jose Police Department has engaged in racial profiling. As the result of an extensive inquiry the Grand Jury made findings and recommendations, most directed to the San Jose Police Department. Finding and Recommendation #3 are specific to the Independent Police Auditor.

ANALYSIS

The Civil Grand Jury has completed an extensive inquiry in response to allegations of racial profiling by the SJPd. Responses to the Findings and Recommendations for the SJPd are under separate cover.

Finding and Recommendation #3 are specific to the Office of the Independent Police Auditor:

Finding 3

The IPA provides an alternate way for citizens to report police harassment or abuse. At present, citizen complaints are shared between the IPA and IA. Regardless of where a complaint is filed, any formal investigation is done by IA. The IPA only audits the results of investigations by IA and either agrees or disagrees with them. The IPA does not conduct independent investigations. In cases of unresolved disagreement between the IPA and IA, the IPA can request further investigation by writing to the City Manager.

Recommendation 3

The Grand Jury believes that the IPA's role and responsibilities should be expanded to allow a level of investigatory powers in addition to its current audit responsibilities. The Grand Jury recommends that a review of similar police audit functions in other large cities be initiated. This should identify models which could be used to augment the IPA mission.

The San José City Council passed the ordinance to establish the Office of the Independent Police Auditor in 1993. The IPA was created to provide civilian oversight of the citizen complaint process and to make policy recommendations to the San José Police Department (SJPd).

The mission of the IPA is to provide independent review of the citizen complaint process, thereby ensuring increased accountability by the San José Police Department. The primary functions of the IPA are:

- To serve as an alternative location for citizens to file a complaint against a San José police officer;
- To monitor and audit SJPd complaint investigations to ensure they are thorough, objective, and fair;
- To conduct community outreach and provide information about the services the office provides to the community;
- To make recommendations to enhance and improve policies and procedures of the SJPd;
- To respond to the scene of and review officer-involved shooting investigations.

The IPA currently does not have independent investigative authority, notwithstanding the authority to interview civilian witnesses in review of the Internal Affairs investigations. At issue in the Grand Jury Report is the high number of complaints classified by IA as inquiries which by definition are not investigated. In reviewing complaints for the IPA 2006 Mid-Year Report, statistics show that this trend of the classification and reclassification of a large number of cases as inquiries has continued.

The IPA was created 13 years ago. Although nationally recognized as a model of civilian oversight, this is a young, constantly evolving field. A review of other oversight models at this time would provide both the City and the IPA a sound basis for supporting or rejecting current and future recommendations for change. It may also be beneficial to review Internal Affairs practices in other large police departments.

In light of this continuing trend, the concerns raised by the Grand Jury's Report, and by the IPA in its 2005 Year End Report, the IPA recommends that the Council direct the IPA to study other similar civilian oversight organizations and report back to the Council in the IPA 2006 Mid-Year Report. This review will be coordinated with the City Manager's Office and the San Jose Police Department.



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Independent Police Auditor